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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,018	08/18/2001	Chris J. Kavanaugh	Y01-028	4155

7590

11/19/2004

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EXAMINER

WILSON, LEE D

ART UNIT      PAPER NUMBER

3723

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/932,018		CHRIS KAVANAUGH	
	<b>Examiner</b>		<b>Art Unit</b>	
	LEE D WILSON		3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-9, 11-15, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Palenik III (3987579).

Palenik discloses an universal fixture having a plurality of dual axis clamps (38) each rotatably and slidably secured rods (fig.3), and base (13). Palenick III discloses enough parts to anticipate all claim pluralities.

2. Claims 1-9, 11-15, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hewson (4253649)

Hewson discloses an universal fixture having a plurality of dual axis clamps (fig.3) each rotatably and slidably secured rods (41), and base (60). Hewson discloses enough parts to anticipate all claim pluralities.

3. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Steffen (Re25802). Steffen discloses an universal fixture having a plurality of dual axis clamps (11) each rotatably and slidably secured rods (60,66,65 or fig.3), and base (61). Steffen discloses enough parts to anticipate all claim pluralities. A plurality of threaded machine screws (52&63).

***Response to Arguments***

4. **Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.**

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- a. Applicant's arguments filed 12/15/03 have been fully considered but they are not persuasive. The rejections of the claim is in regard to the lockable limitation not being clearly recited. The applicant is relying on this for patentability so all arguments are moot until the 112 issue is addressed.
- 5. Applicant has submit arguments in regard to patentability.
  - b. **Claims were amended to show that the clamps are rotatable and slidable relative to each other.**
    - i. The prior shows clamps that are rotatable and slidable relative to each other. The rods not clamps are rigidly fixed with respect to each therefore they met the terms of the claim. The clamps frictionally lock the rods at the very least which reads on the instant invention.
  - c. **Applicant has submitted a definition to the term clamp.**
    - ii. The definition submitted by the applicant is not the broadest interpretation of the term clamp. It is more narrow than what can possibly be defined as a clamp. The applicant should see the definition found by the examiner. Please see the attachment. The definition as seen states a device that grips, supports or joins something together. There is not really structure define. This means that the prior art still reads as a clamp.
  - d. **Applicant argues that some parts are inherent to clamp.**
    - iii. The definition found by the examiner does not define any structure. Class 269 has many clamps with many structures that may or may do the same thing or look a certain way. According the broadest definition there is no structure found to even make a claim of inherent structure.

**Conclusion**

- 2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pajean discloses a device..

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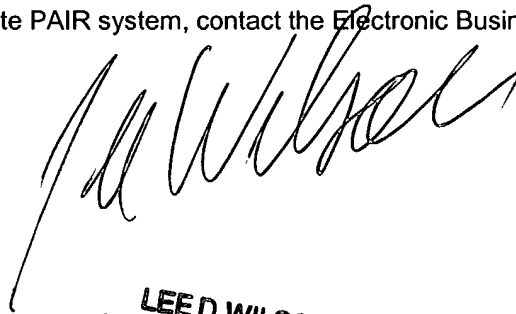
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LDW

11/17/04



LEE D. WILSON  
PRIMARY EXAMINER